

less I never furnished whatever I had in mind. However, note added proof of use of Act in marked ref. to Bud's letter for me.

CA75-1996- Dugan's Motion to Stay, ^memo Points, Authorities.

Does he begin with an accurate legal representation, that these are only "requests" when they are a complaint and an amended complaint and when they have been directed by the judge to comply with the amended complaint, which the judge has not ruled is not properly an amending of the complaint?

I think he limits himself in "This motion to stay further proceedings relates to the subsequent request." He has not complied with the first nor has he provided sworn assurances of compliance.

Beginning with his first words he deceives and misrepresents and I think the affidavit is because of his argument perjurious. My first request for some of this material was in my 3/24/69 request to J. Edgar Hoover. The fourth paragraph reads as I will quote. But I ~~am~~ am also addressing priorities, taking requests in sequence, no favoritism, due diligence, good faith and all that:

"Now that there has been a court proceeding, I hope some of what might earlier have been considered secret is no longer. I am particularly interested in that evidence that establishes or tends to establish that Ray was the assassin, such things as ballistics proof..."

The next paragraph: "Your bureau has also released some pictures. I would appreciate copies." If he has those owned by others, "I would appreciate like references to those taken as close as possible to the moment of the crime and at its scene..."

I conclude with "I am quite anxious to have all the available proofs that there was no conspiracy and that he was the assassin."

I began by telling him "I have written a book" and that Blair's book credits the FBI with helping him.

My records show no response.

There had been earlier correspondence with Carl Belcher. On March 31, 1969 I told him "I would like to get a set of the evidence," not just the extradition affidavits.

I also asked for copies of "the various press statements by the Attorney General and others in the Department." Neither request was filled.

Bud wrote Mitchell 8/20/69 saying that "despite numerous written requests over a ~~period~~ period of months not only has Mr. Weisberg been denied access to the records, he has not ever received a reply to his repeated requests for the Department's rules relating to the accessibility of records under the Act."

My file is not in chrono order. 6/2/69 I wrote Mitchell complainign that Belcher had written me that "further exchange of correspondence between yourself and the Department of Justice on this matter will serve no useful purpose." I note that after my receipt of that letter five of mine remained unanswered.

In granting Calla a little more time on 10/9/69 Bud notes two other requests having to do with 399 and spectro not complied with.

11/13/69 Kleindienst rules the court records were investigatory files. Thus exempt. He denied the memo of transfer under (b)(6) and everything else asked for of the FBI as exempt under (b)(7).

11/26/69 Bud corrected Kleindienst's factual errors, including the rewriting of my request, and notes "almost three months" was "required for the first reply at a time when there certainly was no FOIA burden."

12/10/69 Lyerly of State confirmed that when Kleindienst told him (b)(7) applied "the Department of States returned the affidavits" to Justice, which denied having them. After we told Kleindienst he ~~wasn't~~ wrote on 12/15/69 that "we adhere to the views expressed

expressed in our prior communication," or 11/13/69.

We appealed 2/2/70, to Mitchell. When he did not respond we filed C.A. 718/70, after which and not until 6/6/70, or three months later, he ~~decided~~ "determined that you shall be granted access."

Even then DJ Stonewalled and I received a summary judgement in my favor.

I think I should include the foregoing in an affidavit and will, picking up Anderson's affidavit, quoting it as falsely sworn and noting that with regard to the memo of transfers DJ denied it to me for more than five years after SS released it to me. On release it was found not to be mine. The other items include spectro, and I'll include an encapsulation of that.

^{this} ~~now~~ makes it clear that ~~with the record concerning the~~ "the difficulties the FBI has encountered in even reaching plaintiff's subsequent FOIA request" because it adheres strictly to the time of receipt of the request at least in parts is had been in non-compliance for more than six years, on this request alone. It also makes clear that if DJ has the "policy" of which Dugan informed the Court, it has violated that policy with regard to me on this request and not with regard to it alone.

Thus if there were the "exceptional circumstances" claimed on p 2 they cannot relate to a request more than six years old and with regard to that any claim to "due diligence in responding" is spurious.

Under any interpretation of any claim sworn or not sworn with this record there is no basis for giving "the agency additional time to complete its review of the records." This record also hardly justifies the claim to have "made every reasonable effort."

He next cites Open America without mention of the decision the same day by the same appeals court in my spectro case. If the decision says nothing relevant to this - and I cannot find my copy of it probably because it was borrowed - I am sure the judges did during Oral Arguments.

He refers to "exceptional circumstances exemption of the statute." I'm not sure whether it is in the statute or ~~is~~ a decision, but there also are exceptional circumstances for priority treatment of a request. Naturally he would not cite this.

Interesting that he uses the Smith affidavit rather than one from the supervisor in FBI/FOIA on this case, Wiseman.

* For affidavit: "there are numerous requests and appeals which preceded plaintiff's and there is nothing to suggest that the Department will not give plaintiff's December 23, 1975 request the same careful attention that others received." Begin with Powell and cite others and refer to exhibit to be made, in this connection, based on the record Dugan's entirely unsupported claim that "The Department's decision may make this judicial proceeding unnecessary" is fraudulent. The 4/15/75 request still has not been complied with and the appeals was not acknowledged until some six months after the action was filed, which was seven months after the request had not been complied with. With the masking of the records Dugan knows this is a fraudulent claim because those maskings have all been reviewed by the appeals mechanism.

I think I'll make separate notes in the form of a draft of responses to the attached affidavits.